



Residential: Visitors

HCBS Settings Requirement

Individuals are able to have visitors of their choosing at any time.

Intent

Individuals have the opportunity to develop close, private, and personal relationships without having unnecessary barriers or obstacles imposed on them. HCBS federal rules require that individuals be able to have visitors at any time, without restriction, just like anyone would have in their own home or rental unit. As a provider you should not be screening who the individual elects to have as a visitor. This does not mean that individuals can be inconsiderate of others' rights or the need for quiet and safety in the residence. It is intended to ensure that individuals who live in residential settings have the same freedoms any of us have in relationships with visitors in our own homes.

To comply with this requirement, you will ensure:

- ✓ Individuals can choose their visitors and have no restrictions on visit times
- ✓ Individuals may have overnight guests
- ✓ Individuals have access to unrestricted visitor areas
- ✓ Individuals have the right to privacy during visits
- ✓ Any modifications to this HCBS right is based on an individually assessed need

FAQ

Q: How will the regulation's requirements that an individual in a provider owned or controlled residential setting have access to visitors at any time be balanced against the rights and desires of others living in that setting?

A: The regulation requires that individuals in a provider owned or controlled residential setting experience the community in the same manner as individuals not receiving Medicaid-funded home and community-based services. While no restrictions on the ability to have visitors should be imposed for convenience purposes, the regulation does not supersede orders of protection or other parameters governing the movement or actions of individuals visiting the setting that may arise under landlord/tenant or other laws or terms of the lease or rental agreement.

Example

Visitors are allowed at any time at Trey's group home. All visitors must sign in and out on the visitor log. Trey's girlfriend, Paige, visits at random times when in the area. If it is after a certain time at night and the doors to the group home are locked, Paige must use the doorbell and may be asked to sign in and out on the visitor log. If Paige visits when other individuals are sleeping, the Paige is expected to be quiet and respectful of all individuals who live in the home.

Best Practices

- ✓ Policy and procedures clearly outline requirements for visitors.



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- ✓ Policy and procedures address that individuals are allowed visitors of their choosing at any time, visitation must include options for privacy with visitors.
- ✓ Policy and procedures address overnight guests.
- ✓ Staff is trained on and adheres to **HCBS Rights**.
- ✓ Provider uses a visitor sign in/out log.
- ✓ Provider helps individuals coordinate arrangements for visitors.

Additional Guidance

Visitors should have access to all appropriate areas of the setting when visiting and should not be denied entry to common areas or the person's room. The setting may require visitors to sign in and/or notify the provider that they are in the setting or adhere to other procedures to ensure the safety and welfare of individuals who live and work there. However, procedures should not restrict visitors for the convenience of staff or restrict the individual from association with those they choose.

It is understood that in a shared living situation the needs of other residents must also be respected. If there are concerns from other individuals in the setting about a visitor(s), the providers should facilitate communication between the parties.

The human rights regulations are prescriptive and clearly outline provider responsibilities. They protect the right of an individual receiving services to have or refuse visitors.

12VAC35-115-50 (c)(8), Have or refuse visitors.

a. An individual's access to visitors may be limited or supervised only when, in the judgment of a licensed professional, the visits result in demonstrable harm to the individual or significantly affect the individual's treatment or when the visitors are suspected of bringing contraband or threatening harm to the individual in any other way.

b. The director or his designee shall discuss the issue with the individual and inform the human rights advocate of the reasons for any restriction prior to implementation and the restriction shall be documented in the individual's services record. The need for the restriction shall be reviewed by the team every month and documented in the individual's services record.

To support a culture of person centered services, the Office of Human Rights (OHR) does not issue blanket guidance on restrictions. Each restriction should be reviewed in context and in consultation with the individual and his person centered planning team. In the case of visitors, ONLY a licensed professional can determine if visits result in demonstrable harm to the individual, if visits significantly affect the individual's well-being and/or when the visitors are suspected of bringing contraband or threatening harm to the individual in any other way. Individualized restrictions on visitation require additional review by a Local Human Rights Committee (see section 100 B.5).



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Providers may develop and enforce written program rules that address visitors, but only if the rules do not conflict with the HCBS settings requirements, the human rights regulations and are needed to maintain a safe and orderly environment. These rules are used to promote the general safety and well-being of all individuals residing in a home.

The human rights regulations require that individuals receiving services participate in the development of these rules and that these rules apply in the same way to each individual. For example, rules may require all visitors sign a Visitor Log, or remain with the individual they are visiting at all times. These rules cannot conflict with any ISP and must be reviewed with each individual and his authorized representative in a way that the individual can understand prior to moving into a residential setting. Finally, these rules should be submitted to the advocate (and the LHRC , upon request) for review and approval.

Please contact your local Human Rights Advocate for further consultation regarding implementation of individualized restrictions in general and, the individual's right to have and refuse visitors.

Red Flags 🚩 -- Practices to Avoid

- 🚩 The provider makes decisions on who may visit and who may not.
- 🚩 The provider does not have a policy or procedures addressing HCBS visitation rights.
- 🚩 Provider enforces visitation hours for all individuals.
- 🚩 Provider policy only offers alternative arrangements, thus restricting visitation in the setting (i.e. provider offers to pay for the visitor's hotel room for situations when overnight visitation is requested).

Acknowledgements:

Idaho- Welcome to HCBS Rules Guidance Section of the Provider Toolkit

Minnesota- A Provider's Guide To Putting the HCBS Rule Into Practice

Wyoming-HCB Setting Improvement Strategies Guidance for Case Managers, Providers, Participants & Guardians

South Dakota-Guide to Expectations and Compliance